

**FLOOD CONTROL ADVISORY BOARD
MINUTES**

February 27, 2002

The monthly meeting of the Flood Control Advisory Board was called to order by Chairman Hemant Patel at 2:00 p.m. on Wednesday, February 27, 2002.

Board Members Present: Hemant Patel, Chairman; Scott Ward, Vice Chair; Shirley Long, Secretary; Melvin Martin; Mike Saager; Tom Callow, Ex Officio; Tom Sands (for Paul Cherrington), Ex Officio.

Staff Members Present: Tom Johnson, Deputy Chief Engineer; Julie Lemmon, General Counsel; Dick Perreault, CIP/Policy Branch Manager; Tim Phillips, Project Manager; Bobbie Ohler, Project Manager; Russ Miracle, Planning Branch Manager; Don Rerick, Project Management Branch Manager; Michael Alexander, Management Analyst; Jim Schwartzmann, Lands Division Manager; Fritz Huber, Construction Branch Manager; Kathy Smith, Clerk of the FCAB; Monica Ortiz, Administrative Coordinator.

Guests Present: Roger Baele, David Evans & Assoc.; Dave DeWeese, MCDOT; Jeannette Fish, MCFB; Ed Fritz, MCDOT; Tim Morrison, HDR; Bryan Patterson, City of Chandler; Mary Reece, BOR; Jerry Zorne, Parsons.

1) APPROVAL OF THE MINUTES OF THE MEETING OF JANUARY 23, 2002

ACTION: It was moved by Mr. Ward and seconded by Mr. Sands to approve the minutes as submitted. The motion carried unanimously.

2) QUEEN CREEK ROAD BASIN IGA WITH THE CITY OF CHANDLER

Chairman Patel mentioned that there were some concerns raised by the Board and that his understanding is that all the concerns have been addressed and everyone is real happy with the way the land acquisition procedures are in place. Mr. Patel asked if there was any further discussion to add on the land acquisition process.

Vice Chair Ward indicated that he personally had a very good meeting with Tim Phillips and Jim Schwartzmann. He said he had a chance to visit the site and then met with Chandler officials to talk about the site and about the land acquisition procedure, which helped him understand the procedure. Mr. Ward said that one of his concerns is how long it takes the government to acquire land and the cost. Analyzing the procedure from the Board's perspective, the District does the best job they can, but the Board as a team will evaluate that and see how it can be done better.

Mr. Ward publicly stated that he appreciated all the help the City of Chandler staff provided in helping him to understand the process and how a client city works. He also indicated that he is extremely impressed with the performance of Tim Phillips and Jim Schwartzmann considering the bureaucracy they have to go through.

Tim Phillips, Project Manager, presented IGA FCD 2002A001 for the Queen Creek Road Storm Drainage Basin. The property is approximately 70 acres. The basin site will be 63 acres with an average depth of 5 feet and will provide storage of 145-acre feet. The inflow capacity that is getting to the basin is over 1,200 cfs and the outflow rate is ultimately reduced to 34 cfs. The appraisal that was done came in at about \$65,000 per acre, so the land cost is about \$4.6 million for the 70-acres.

The provisions in the IGA are that the District would lead the rights-of-way acquisition process. The cost share is an equal 50/50 for the land acquisition. The parcel would be divided 50/50 based on the land value. The reason for this advanced acquisition is to take advantage of getting the property before it becomes developed, as it is an integral component of the Higley ADMP flood control system. The intent is to divide the land between the District and the City so that ultimately if the facilities cannot be built, it would make it easier to declare this land as excess and sell it to cover our expenses.

Tim Phillips stated that the recommendation is that the Advisory Board endorse and recommend that the Board of Directors approve this IGA between the City of Chandler and the Flood Control District for cost sharing the land acquisition for the Queen Creek Road Storm Drainage Basin.

Discussion:

Callow: That's a fairly shallow basin. Is that driven by anything?

Phillips: It's driven by the elevation of the outfall. The channels where it would outfall parallel SRP's canal and the ability to get it all the way south across the Indian Community and into the East Maricopa Floodway is really the challenge.

Martin: Which half would we get, the south half or the north half?

Phillips: We would take the south half. Chandler would prefer the north half because they are also buying some land adjacent to this property where they are going to build a police track so it fits their concept to have the north half that has frontage on Queen Creek Road. The south half has frontage on McQueen Road and also the half-mile street, Appleby, is being improved, even as we speak.

Martin: If it didn't get built, why would we want the option to buy their half?

Phillips: It's a provision in the IGA, but the reality is we would probably just sell our half. There would be no reason for us to continue holding that property.

Martin: Is it in the noise abatement zone from the airport?

Phillips: I'd have to ask Bryan (Patterson) if it's specifically in the zone.

Brian Patterson, City of Chandler: It's not actually in the noise abatement area but it is partially in what we call the runway protection zone. We prefer to have land uses in that area that are not noise sensitive – we don't want homes in that area. It could be commercial or industrial uses if we built outside the runway protection zone, but not residential. It's really an ideal use for open space, the police driving track, and recreational purposes.

Martin: Is there a difference between the north half and the south half as far as the airport is concerned?

Patterson: The closer you get to the airport, the more concerned you are about noise so we would want a lesser noise-sensitive use on the north end. We'd expect more of the recreational uses to occur further south, away from the airport – we'd have the police-driving track close to the airport.

Martin: I can't imagine that property being worth \$65,000 an acre in a FAA Zone where it's right in line with the runway. I was shocked that any appraiser would take a piece of land, which you can't build houses on, and say it's worth \$65,000 an acre.

Ward: This is an area I know real well. This might be something we need to investigate as a team. I talked with Jim Schwartzmann and Bryan Patterson about this procedure. What they do is they go out and they hire one appraiser – a totally independent appraiser – that looks at land comps. I have closed four parcels within a two-mile radius of this piece of property, one piece just south of this land of 160-acres sold for \$64,000 an acre about 18 months ago. Since that time there have been two sales in that marketplace above \$70,000 an acre of which I brokered one of them. It's a unique site in that it fronts the airport, it's industrial property, and there have been industrial sales in that area. One I was involved in that was over \$2.00 per square foot. It's unique in that the piece kitty-corner from it is the Chandler Landfill. I think, to be objective, what the appraiser did, is they go in and look at all the land values. They really don't categorize them like we would in the private sector and say okay, you're next to the wastewater treatment plant and you're in the runway, they look strictly at value. I'm in a difficult position because I know the owners of the property and I work daily with the City of Chandler. The Flood Control District and the City of Chandler use the same appraisal process and that's how they evaluate the site. If you look at strictly land value, you come to a conclusion of about \$65,000 an acre. What I was impressed with is how Chandler has jumped on it and is going to amenitize this project. We've got to kind of take our private sector hats off when we evaluate this process. Shirley, your family has done this for years, if you look at this piece I'm not sure your family would look at Jim Miller and say this piece is worth \$65,000 an acre. But if you look at it based on the criterion that this Board uses, that is how we evaluate property.

Long: I can appreciate that Scott. I feel that as a Board we wear several hats and one of them has to do with representing the private sector. I do appreciate the development strategy here, but I don't think that the Flood Control District will get the same value back as they are putting in because of the place that it's situated.

Patel: Who sets the criteria in terms of how we get just one appraisal because we are a public agency, is that by Statute?

Lemmon: Jim Schwartzmann is here from the Lands Division and can give you more detail. It's actually the Constitution that says that we must pay just compensation for any property that we take. There are statutory requirements about relocation, etc. The Courts have basically set the standard as to what we pay, which is that value that a willing buyer or willing seller, knowing everything that is known about the price, would agree to pay in an open transaction. That would be, perhaps, a difficult thing to put into a Statute, but that is the goal that has been set by a State law that we must look for that fair market value. Jim can tell you a little bit about the appraisers. We did have one of our outside condemnation attorneys speak with two of the Board members and I'll make the same offer to any of the rest of you if you would like to have a meeting to have a discussion about land acquisition, we can do that.

Jim Schwartzmann, Lands Division Manager: This particular property is also zoned PAD or Planned Area Development. It does not preclude houses; houses can be built on there. The representative from Chandler indicated that there was small triangle of property at the northern end that is impacted by either noise or airport restrictions. The rest of the area could, potentially, be used for a variety of other kinds of uses, whatever is allowed under the PAD Zoning. It could be commercial uses, some residential uses, and possibly apartment-type uses. That is a very broad category and this is already zoned for that. In looking at the comparables that the appraiser looked at in the surrounding area, that compares favorably, and probably not in the highest end of value, for the \$65,000 an acre. We can never guarantee that a portion of that property would sell for the same price we bought it for. If you recall, we have a piece of land that we purchased near 107th Avenue and Camelback Road – Camelback Ranch. It is in the flight path for the Glendale Airport. We took it through zoning through the City of Phoenix and we sold the north half to

Glendale for what we bought the entire property for. It is a similar situation to what we have here. I could not and would not guarantee to this Board that if we don't need the south half that we could sell it for \$65,000 per acre. I would suggest, particularly after going out with Mr. Ward and looking at the property, the reason we tried to purchase this now as an advanced acquisition is because prices are accelerating rapidly out there. I would suggest that it very well could be a fact that we would sell it for at least what we bought it for, maybe more, because the uses are not restricted, except for that upper corner piece. I really don't believe there is a whole lot of risk, but you never know, next year the whole real estate market could go to heck. Our appraiser used very good comps, the same size comps, and the same kinds of zoning where possible in looking at the valuations.

Martin: Does Chandler ever plan to put another runway in?

Patterson: No we don't. We do have parallel runways already. About 10 years ago we built the second runway at the airport. There has been public debate about extending the runways. It's been voted down a couple of times. So, the runway configuration you see is what we intend to have for the long-term.

Callow: This is just a general aviation airport?

Patterson: Yes, it's mainly flight training schools.

Sands: Are there any plans for any wetlands or bird habitats?

Phillips: No.

Patel: Do we have enough of a comfort level with the land acquisition to at least proceed with this?

Saager: I sent everyone a letter after Scott and I met with Tim, I am perfectly and fully satisfied as I think Scott is, with the land acquisition not only as it stands on this property but future properties whether it be in Chandler or not in Chandler. Scott spent half a day going out and looking at the site and comps. My vote is there and I move that we move forward with the land acquisition.

ACTION: It was moved by Mr. Saager and seconded by Mr. Sands to approve staff recommendations. The motion carried unanimously.

3) ELLSWORTH CHANNEL IGA AMENDMENT

Bobbie Ohler, Project Manager, presented IGA FCD 2000A002A for the Ellsworth Channel Project and asked for the Board's concurrence for the Amendment to this IGA.

The Amendment Provisions include:

- ?? Reallocation of District funding to maintain current Project schedule
- ?? Construction management responsibilities more clearly defined between the District and MCDOT
- ?? Powerline Floodway reconstruction specifically identified and included in the Project
- ?? District to take lead for Powerline Floodway design, R/W acquisition, construction, and construction management

Discussion

Callow: Who is going to do the construction management?

Ohler: The way we're envisioning it is that MCDOT will be the head of the construction management and they will hire us to do the channel part and then either do the road part themselves or have someone else do that.

Callow: So they'll do the road, we'll do the channel?

Ohler: I believe that's the way it's going to work. We have enough flexibility in the language that we might be able to change that a little if we need to.

Callow: We don't have any intent of the District doing the road?

Ohler: We were hoping to do the construction management for the road, but it looks like we probably won't. We feel we're capable of doing that.

Callow: Are we advancing money so that the road can be built? Is that the purpose of this amendment?

Ohler: No, our cost share payment originally in the IGA was 50% at award of construction and this amendment will change it to be 75% of our cost share for construction upon award. We would pay 100% of our cost share for the channel only for design, rights-of-way, any utility relocation, and any other project costs that have already been applied toward the project. But no, we are not funding the road. It's just Mesa and MCDOT that are paying for the road part.

Martin: What property is this going to protect? And, where does it flood now?

Ohler: The worst flooding occurs actually on the road itself – it's really quite a hazard. The road itself acts like a spillway; some of the culverts coming out from GM actually dump right onto the roadway. There have been some real major problems with roadway flooding, even for small storms.

Martin: Is there major development happening on the east side of the airport?

Ohler: Not now and probably won't be for several years because GM owns that land. They will be developing it some day, but we don't know when.

Ward: This is another area I know very well and I raised the question as Mel did. General Motors Proving Ground is out for an RFP. As the case before this, I've done a lot of soul searching looking at values and I became very comfortable at the procedure and the dollar value of the project before. On this project, I think we need to bring Mesa and General Motors Proving Ground in, because this really affects the value. If we come ahead and channelize some of these right-of-ways, it truly affects values of properties continuously. I went out and drove this road and met with Tom and Mike and we discussed this. When you go out and drive the road today, the road isn't an all-weather crossing; it's really a terrible right-of-way. In looking at that, I support this case because something has to be done to that road and quickly. If anything further is done to help channelize the flows around Williams Gateway Airport, we've surely got to bring Mesa in and the GM people.

Johnson: To add a little bit to what Scott just mentioned, I've been in contact with the City of Mesa and I'm setting up a meeting to meet with Wayne Balmer to discuss what Mesa's plans and GM's plans are right now. It's kind of a fluid situation. I'm not sure if Mesa knows where things are going right now. Our intent is to take a re-look at the whole area in light of other situations that have developed, and look for an opportunity to utilize the General Motors Proving Ground's area for some kind of regional drainage solutions. Because there is so much land available, it would make sense to identify areas that we could use to mitigate flooding in that area. To add to what Bobbie has said, the evolution of this project was the severe flooding out there has caused a real hazard with the highways. MCDOT has been under a lot of pressure to do something. There has been a lot of flooding in the area and we've been under pressure to do something. What we tried to do was work together to create a solution for both of our problems. The idea of working Ellsworth Channel in concert with the highway makes a lot of sense. We could construct the two projects together a little more cost-effectively than if we went in two different directions at two different times.

Patel: If we approve this item, then we are basically accelerating this project. Otherwise, with the lack of money from MCDOT, you could plan on the start stalling and we wind up losing whatever a year or so, right? So if we're saying we'll advance our share of the project then we're accelerating the project and I fail to see how that helps us try and get more partners. If GM is still going through an RFP process and the Airport hasn't stepped up, us accelerating the project means they're just going to keep sitting on their hands and not do anything.

Johnson: Let me try to clarify this a little bit more. Mesa, MCDOT and the Flood Control District are cost-share participants. MCDOT and Mesa are sharing in the cost of the road; MCDOT and Mesa are sharing, I believe to some degree, in the overall cost of the channel. Williams Gateway has participated to the extent of providing right-of-way, which was a very difficult effort to get them to come to the table with us. GM has been very agreeable in working with us and providing some rights-of-way and that's about as far as we've been able to with GM because their situation is changing. I believe this project is independent of what GM does. There will come a time because of drainage problems to the east of GM where they will have their opportunity to step to the plate and help reduce some of the problems in the east Mesa area.

Callow: What level of protection are we providing?

Ohler: This is a 100-year future hydrology design project.

Callow: Is there a 100-year floodplain we are eliminating with this?

Ohler: There is not floodplain, but we are designing for the 100-year future, but we are also going to contain the 100-year existing.

Martin: Every time I develop anything the City and the County makes me put half a street in. It looks to me like we're going to put a whole new road in for GM and the airport. I don't understand why we're rushing in to put a new road in for nothing for GM. I just question that.

Johnson: The road is a MCDOT project and the main problem with the road right now is that it's very dangerous when it rains out there. It impacts the employees at GM, TRW, and some of the surrounding area. The cost-share for the road is MCDOT and the City of Mesa. They recognize that this is a problem. At the time we began these negotiations, nobody knew GM was going away. By the time GM can find a developer and they go through their process and by the time plans can be agreed upon with the City of Mesa, years will go by. I think the important thing here is a public safety issue that we shouldn't lose sight of. General Motors, or whoever develops the property, will have their pound of flesh extracted at the time they begin their developments. The roads you are referring to, Mr. Martin, and the retention basins are going to be required of them within their project.

Ohler: I believe Mesa has taken out a lane of roadway from the design and they plan to have the developers put in an additional lane in the future. Originally, they were going to build a wider road and decided to put some of that off on the developer in the future.

Dick Perreault, CIP/Policy Branch Manager: This project is not one that we just came up with. This is a project that was originally requested by Mesa in the early 1990's predominately because of the flooding along Ellsworth and Germann Roads and the inability of the people working out at TRW and some of the industrial areas and the school buses getting through. We did the East Mesa ADMP, which has a whole laundry list of projects. This was one of the ones that was determined to be a primary project mainly because it will be the backbone of future infrastructure that will go along Pecos Road. There were also some detention basins on the east side of Meridian Road in Pinal County, catching the water coming from Pinal County, continuing down Pecos Road and then along Ellsworth Road. While we were doing the ADMP, MCDOT started their planning for upgrading Ellsworth Road because of the increased traffic and problems. This is one of the main access routes to Queen Creek. It became very obvious to us that drainage was going to be a big issue for improving the road and we said it makes sense to marry the two projects together. We went through the negotiations; Mesa and MCDOT are paying for the roadway; we've got a three-way partnership for the drainage infrastructure; and we think there will be economies scale in building them together. MCDOT had some financial problems and wanted to delay the project so that their monies would catch up. Both Mesa and us said we want to keep this thing going because now is the time to put the infrastructure in. What we are doing, in effect, is advancing some of our money for one year; MCDOT will be paying it back the following year. It's not like we are subsidizing MCDOT's roadway; all that we're trying to do is keep the project on schedule.

Patel: From a fiscal standpoint, we're going to become real popular if word gets out that we've got cash, especially in this kind of economy. Is this the best use of our extra cash right now to keep this project on track? We're not subsidizing MCDOT, but we are tying up our money where that money could have been used somewhere else to bring something else along. It's a public safety issue, but what guarantee is there that if we step up here and MCDOT has another stumble and the road still doesn't happen. Now we're out that extra cash that we had. There's not real fire here – it's not like land is going up in value.

Perreault: Actually the land out here is not going down and we're finding that out with some of the EMF Basins property that we bought, the prices are going up significantly. In this case, in our original agreement, we are not going to have to acquire rights-of-way. The Williams Gateway folks are providing rights-of-way on their side of the road and we may have to buy a little bit on the GM side, but it's very minor compared to the scope of the project. I would say that this project ranks higher than many that we have in the CIP and I think it's good use of our funds for this next year. Again, it's only a one-year window that really we're advancing the money trying to keep this on schedule.

Callow: In a number of our negotiations with both Phoenix and a number of the other cities, the Flood Control District has demanded interest paid on any money that was advanced by the Flood Control District on a project. I don't hear anything in here about that being discussed with the County. Has that been raised?

Johnson: I don't believe it has.

Callow: This goes to the point of, are we separate from the County or are we part of the County?

Johnson: The Flood Control District is separate from the County.

Patel: How do we know if it has been raised? Cash is very valuable right now.

Johnson: I can tell you, as I look back on what has transpired, quite frankly, when the request came from Tom Buick, the Director of MCDOT and County Engineer, I don't believe, given the situation that it occurred to us. I don't think it was a conscious effort to exclude or include them. In the heat of trying to keep things going, that's where we were.

Ward: Is there any way there could be a buy-in for Williams Gateway or for the GM Development? Every time that I do a project and there has been infrastructure to help that project, I've had to pay for a buy-in. I'm an advocate because I think this improvement is for public welfare.

Ohler: WGA is going to provide easements for us for the Channel.

Ward: Didn't you mention that we were going to have to pay for right-of-way for GM?

Ohler: The reason I put that in the IGA Amendment is because the original IGA had a paragraph in there that at that time several years ago GM had told us they would provide us free right-of-way. Since they've had a change of their condition, they told us that they can't do that any more, so that's why I put it in the Amendment, just to clarify the original IGA language.

Ward: Julie, do we have condemnation eminent domain powers here?

Lemmon: Yes, we have the authority to condemn. I think that Paragraph 11 talks about the need to do that. We did spend some considerable time negotiating with GM and they did intend to give us, originally, free permanent channel easement. I don't know what happened since I wasn't involved in the negotiations when they fell apart, but we did spend some time on that.

Callow: Just for point of clarification, we've already approved doing this project haven't we? We're not debating whether to do the project today, this is just whether we want to accelerate funding or not?

Lemmon: Also, this adds the Powerline Floodway component in. Originally the project did not include reconstruction of Powerline.

Johnson: I think the primary component of this is the ability to construct the Powerline Floodway component that was not included before. I don't recall why we didn't recognize at the time that we were going to need a larger channel and that it probably needed to be concrete based on velocities or flows. I'm very sensitive and understand the questions and the issues regarding buy-

ins and rights-of-way, and frankly the Flood Control District isn't in a position to discuss that, Mr. Ward, because the City of Mesa and MCDOT negotiated with respective property owners for rights-of-way for the highway. The point is that we are asking for an Amendment to the existing IGA. If it's the Board's wisdom that that not be approved, then obviously we move forward with the IGA that was approved in 2000.

Patel: The result of that would be a delay because MCDOT is short of money?

Johnson: That would be one of the impacts, the other would be we would have to come back to you with a request to add the Powerline Floodway component, or perhaps that could stand on it's own with regard to whatever motion might be made by this Board.

Long: How difficult is it, could it be a phone call that could alleviate some of our concerns regarding the interest issue? Could it be a phone call to find out if we pick and move on with this project and pick up the tab, but we're going to be charging MCDOT interest?

Johnson: If that were the Board's wish, we'd be more than happy to get back with MCDOT and present that as an issue. I personally don't have a problem with doing that. I think frankly, based on Mr. Callow's comments, it's probably more of an oversight than anything.

Patel: How much money are we advancing?

Long: I would appreciate, in the past there has been not only percentage breakdowns but if this was introduced in the 1990's, perhaps we could have just to refresh us as we read these notes to have some cost . . .

Callow: I think it was a \$9 million project, and our share was about 50%.

Ohler: Yes, our share is \$4.5 million.

Long: And, MCDOT has to pick up 10%, right?

Ohler: Yes.

Callow: Of the channel, but they are paying for the road.

Ohler: The original IGA says we'll pay 50% of those costs and that would be about \$2.25 million. We actually pay 50% of our cost share, that's \$2.25 million at time of construction and this would go up to approximate \$3 million.

Perreault: In round numbers we are advancing approximately \$1.5 million for the one year. A clarification of what Mr. Johnson said, we are the ones who are pushing to keep the schedule where it is, not MCDOT. MCDOT said they are willing to slow the project down. Both Mesa and us said we want to keep this on schedule and get it going as quickly as possible. I think that us going back to MCDOT and asking for interest on money that we are advancing for them to keep the project on schedule is not going to meet with much success.

Patel: So we are driving it?

Perreault: We are the ones trying to keep this thing going.

Patel: Where's the fire?

Perreault: The next time it rains out there and a car goes off the road, there will be a problem.

Patel: That particular issue is not ours.

Martin: Not the Flood Control District's.

Perreault: It may not be the Flood Control District, but somebody is going to get hurt and then somebody is going to end up paying for it. As far as GM paying, I had hoped they were going to dedicate the rights-of-way. If this project were not to go, GM can get rid of their drainage right now through all the over-road crossings – there are four or five of them – and so they control the water on their property and then they discharge it the way they have the last 20 or 30 years and it just flows across the road.

Patel: But that's existing conditions. But if they were to develop they would have to get their plans approved by who, the County or the City?

Perreault: I'm not sure who has jurisdiction right now. From what I've heard and discussions that I've had with Mesa, they are probably four to five years away from knowing specifically what they want to do or anything significant happening.

Callow: I raised a point about interest simply because Tom and I do have a philosophical difference about this. I don't think we should be charging interest to be honest with you. The taxpayers are paying for this whether it is Maricopa County Highway Department taxes or Flood Control District taxes, it's still taxpayer money. We're not getting money like a commercial enterprise by going down and selling something to somebody, so I don't think there is a net gain there, we're just moving tax money around. We will save in inflationary cost in the long run, probably more in a year of inflation than we would have accrued in interest in a year. I really am going to support staff's recommendation today.

Ward: Just a philosophical thought. I spent pretty much a whole day scouring that last application and looking at whether we are doing things prudently and is it a fair deal. When I look at this, I see us carrying the ball and, if you look at that map, I see a major arterial being improved to help the private sector in the long run. That's really my concern, knowing how tough our budget is. I agree with Tom, whether it's the Flood Control District or Maricopa County or MCDOT, it's still the same money. I think we really have to be cautious of these improvements that help the private sector and this is a major arterial improvement that will help Williams Gateway and GM tremendously.

Ohler: That's probably very true, but it's also going to help the general public quite a bit because of the flooding out there. I think the Town of Queen Creek uses that road quite a bit. I know they've had some accidents on it.

Ward: This road is going to be a major carrier from the Santan 202 Loop into the Town of Queen Creek and the whole growth of GM is going to happen from the west to the east as the growth happens along the northern part of the Santan.

ACTION: It was moved by Mr. Callow and seconded by Mr. Ward to approve staff recommendations. The motion carried with aye votes from Mr. Ward, Mr. Saager, Mr. Sands and Mr. Callow and nay votes from Ms. Long and Mr. Martin.

4) PROPOSED FY 02/03 PLANNING PROGRAM RESOLUTION

Russ Miracle, Planning Branch Manager, presented Resolution FCD 2002R001, which authorizes the Planning Program for the next fiscal year and to acquire rights-of-entry necessary to conduct those studies.

Expenditures for planning studies historically show that in 1997/98, expenditures were down around \$350,000. At that same time, the District recognized that the Planning Program was lagging vastly behind where development was occurring. The decision was to accelerate the program to get ahead of development and have available the necessary planning tools so that the District could prevent flood hazards from occurring because of the lack of knowledge. This coming fiscal year, it's starting to drop and that tendency is expected to continue, yet the ambition is to have Area Drainage Master Plans in place for the entire County by the year 2010.

There are eight Area Drainage Master Studies/Plans that will continue into next fiscal year – Scottsdale Road, Granite Reef, Carefree, Rio Verde, Wittmann, Adobe Dam/Desert Hills, Buckeye/Sun Valley, and Aguila. There are two Watercourse Master Plans that will continue – Agua Fria and El Rio and one new start project – Sols Wash/Hassayampa River at Wickenburg.

The proposed Planning budget for next year is \$6,151,000. This amount is subject to the District going through the full budgeting process.

Mr. Miracle asked the Advisory Board to approve and recommend that the Board of Directors adopt this Resolution, which will authorize the District to continue the ten studies into next year and initiate the one new study and also authorize the rights-of-entry necessary for the studies.

Discussion

Martin: It's hard to imagine that you'd spend \$840,000 studying El Rio. How do you come up with those figures?

Miracle: The estimates are based on what it has cost us to conduct similar studies in the past. It's based on how many square miles of study area it covers, what the particular hydraulic problems are, and whether or not floodplain delineation studies, hydrology modeling, and mapping are available. We are trying to initiate some new and innovative processes to reduce those costs with some success.

Johnson: I offer that our staff would be happy to sit down with you or any other Board members and take a couple of these studies and show you what the components are so that you can clearly see what those costs are. Nothing is simple any more and when you throw in the considerations for the environment, the Corps of Engineers 404 Permitting and all the hoops you have to jump through, these costs mount. The costs are directly contributed to two major components – labor and aerial mapping. The aerial mapping is extremely expensive. The man-hours that go into some of these studies are truly very significant. Our staff negotiates literally hours and hours or days or weeks to get these study scopes where we are negotiating with consultants down to lowest level that we possibly can. I wish I could tell you that we could cut a whole lot out of the program, but the real danger is when you start cutting components out of these studies, later when you begin the implementation program, particularly if you have to get 404 Permits, you then have to go back and redo components of the study to meet the Corps requirements. Over the past years we have beefed up the studies, but it was really in an effort to insure that when implementation time comes we don't have to repeat ourselves.

Patel: I will take you up on that offer maybe in the next couple of weeks. We'll work with Kathy to set something up. I've had several conversations with Mike on this matter where it seems very lopsided, the amount of money that we are spending studying vs. what we are actually building. Is there a way where an interim-level study can be done enough to know what it is and approximately where you have to build and then do a more in-depth study. That way maybe the information can be provided in a timelier manner to the development community. That's been an issue in the past, that we spend millions and then we have to wait years for the output and development still goes on. It probably does warrant another approach and get some other expertise from the Board.

Johnson: We believe that when we started our aggressive program that we had to be able to get out in front of growth. The key thing here is that we've got to plan. We are hopeful that in many cases by doing a good planning program, the plan will be able to be used to incorporate recommendations into their developments. Our financial participation should be very, very low. If we have the plan and they can build to the plan, then we've saved the District and the taxpayers a lot of dollars. If we don't have the plans on the shelf then we never have that opportunity and then all we are doing is building concrete lined channels.

Patel: We should get together and look at it. Also the data that Scott was talking about with the building permits. That is a useful exhibit. Not only relating to studies but everything else that we are doing just to reference that to where things are happening so we know we are spending money in the right area.

Miracle: Those exhibits on the permits were in last year's presentation. Kathy has that on our computer system and she can provide that for you very easily.

ACTION: It was moved by Mr. Martin and seconded by Mr. Callow to approve staff recommendations. The motion carried unanimously.

5) RIO SALADO, PHASE II PROJECT UPDATE

Don Rerick, Project Management Branch Manager, provided an update on the Phoenix Rio Salado Project. The project has a Federal sponsor and a local sponsor. The U.S. Army Corps of Engineers is the Federal sponsor and the local sponsor is the City of Phoenix and through an Intergovernmental Agreement, the Flood Control District joined in with the City to participate in the flood control elements of the project.

The project is a river habitat restoration project and the construction of a low flow channel within the Salt River, primarily between 19th Avenue on the downstream end and Interstate 10 on the upstream end. The original overall project costs for all elements – habitat, low flow channel, design, construction, etc. – was approximately \$80 million.

The flood control feature, which will be constructed and funded by the District, will be done in two phases. Phase I has been completed and that was the downstream phase, which extended from roughly 19th Avenue to just downstream of 7th Street. Phase II picks up where Phase I ended and extends upstream to just before you get to the Interstate 10 crossing of the Salt River. The Phase I completed construction cost roughly \$8 million. The low bid contract amount for Phase II was just over \$10 million.

Three principal construction elements of the project were:

- ?? Excavation of the Low Flow Channel – approximately 1.6 million cubic yards of material was moved for that purpose.
- ?? Roller Compacted Concrete – there was approximately 160,000 cubic yards of roller compacted concrete that went into the placement of the 36 guide dikes, the 4 grade controls, and the bank protection.
- ?? Removal of Construction Rubbles and Debris and Landfill Waste Material – it was estimated between what was encountered and processed in Phase I and what has been encountered so far in Phase II, that 450,000 tons of this material will be processed.

Discussion

Martin: Is it done from Central to 7th Street now?

Rerick: The Phase I began about 800 feet downstream of 7th Street and that is completed from that point downstream to 15th Avenue. Yes, that portion that you've described is completed.

Martin: But not to 7th Street?

Rerick: 7th Street upstream to 28th Street is under construction now, so it is not completed.

Martin: Didn't they come back to us with the original estimate of \$12 million and they came back to us for another \$5 million because of trash. Now I see a slide that says it costs \$8 million to do Phase I?

Rerick: The original IGA had our costs defined at \$11 million. The IGA Amendment B redefined our cost-share to \$18 million and clarified the cost for hazardous material removal in the river bottom, which was not something that we encountered using the definition in the IGA. The trash, rubble and debris became a defined component of the cost-share with the IGA Amendment B. At the present time, we believe the \$10.1 million for Phase II will not be spent. At the rate we are processing material, the roller compacted concrete is completed, most of the low flow channel excavation is completed and fortunately, so far, we haven't encountered any significant trash. We think the final cost for Phase II will be around \$9.3 or \$9.4 million. We will be under that \$18 million figure that we presented when that IGA was presented to the Board.

Martin: I'm confused. We had an \$11 million budget and the City came back to us and said they had to add another \$5 million because they found trash in Phase I?

Rerick: That was part of the impetus for the request. We knew that if Phase II . . .

Martin: But your cost for Phase I is \$8 million.

Rerick: That's correct. The total project was originally approved at \$11 million. When we discovered what the costs were going to be for Phase I, and when the City recognized what that cost was going to be, the IGA Amendment B was negotiated to increase our cost-share to cover the additional trash and removal costs, plus what was yet an unknown figure for Phase II, and that's what generated the Amendment B cost of \$18 million.

Patel: But out of that \$18 million, we're only going to be . . .

Rerick: We think we'll be shy of that by about \$700,000.

Martin: Did we know that there was a landfill downstream of the Central Avenue Bridge?

Rerick: We did not know there was this municipal waste landfill downstream of the bridge.

Martin: Boy that's a misstatement. Here's a chart from the City of Phoenix showing that Central Avenue Bridge and showing the trash in the river – landfill in the river – directly downstream of Central Avenue. This is from the time of the bid from the City of Phoenix, signed by Karen Williams. You've got to correct that statement because you guys knew it was there and the contractor underbid it. I knew it was there, I've been down there over 50 years and anybody that's been down there knew it was there. I don't understand why they came in and wanted more money because they didn't know the trash was there and they knew it was there and this is the bid document they used.

Rerick: I can tell you that the extensive research done by the Corps, who was the principal designer, and the City of Phoenix, who was the principal environmental evaluator compiled all the known information at that time to the best of our collective knowledge and the specs were bid knowing what we knew was there. This pocket of material, around 150,000 cubic yards, was an unknown entity to those of us participating in the project.

Martin: How come it was marked on the bid sheet then?

Rerick: The bid sheets that we prepared do not show a landfill specifically identified, so I'm not sure what you are referring to, Mr. Martin. The reality is that we've encountered unexpected material in Phase I and so far we have not encountered any in Phase II.

Martin: The reason I brought that up was that I went to the Future Meeting of the Rio Salado from 19th Avenue on to 83rd Avenue and I suggested to Karen Williams that they should talk to people that have been down there a long time and seen the landfills and what has been put into them. I said to her that everybody knew there was a landfill downstream of the Central Avenue Bridge. And she said to me that the contractor knew it because it's marked on our bid and she ended up sending me that document.

Rerick: That's not a correct statement, but I will look at the document that you've presented. I can tell you from the lessons learned in the Rio Salado Project that on our Tres Rios Project, which we are discussing with the City of Phoenix and the Corps at this time, this is one of the fundamental issues that we have consistently brought to the table and we will continue to pursue. We do not want the Tres Rios Project to bear the burden of landfill issues due to ignorance or implied ignorance of existing problems in the river.

Johnson: Based on my recollection and comments Mike Ellegood has made in previous meetings, prior to us beginning construction and during the design phase, the Corps of Engineers and the collective team did geotechnical borings out on the river. You're right, there is no secret there was a dump somewhere downstream of the bridge that you are talking about. Borings were done out on the river to try to pinpoint exactly where the dumps began and ended. Based on the soil borings that we had, we had no reason to believe, other than making allowances for encountering unknown waste or hazardous material, that we were going to encounter the quantities that we did. Mr. Ellegood told this group, at the time we brought forward to you the Change Order, that the next time we do this we'll do a lot more soils testing and a lot more borings. So, for Phase II we did that. It was known there was a dump in the area, but significant testing was done (not enough obviously) to quantify exactly the beginning and ending points. That was the problem that we encountered. I don't know what you've got there, but I do know from the construction

documents and the way we bid this project the information we had available was exactly as Mr. Rerick is saying to you.

Martin: I just got the information that came from the City and she said it was the bid document that they bid off of. She definitely knew that there was a landfill downstream of the Central Avenue Bridge.

Johnson: Well there is. The point is, when the borings were done in the river . . .

Martin: But, I wish Mike was here and you've got a recording of it. His words when you came back for the extra money, "nobody knew that that trash was there, nobody knew that landfill was there," and it's on tape and it came out of Mike's words that nobody knew that there was a landfill south of the . . . everybody knew that have been down there for 50 years. I'm upset with the fact that they come to us and we give them more money. How much money did they get out of the aggregate that they took out of that river – they sold to the sand and gravel people?

Johnson: I don't know.

Martin: Millions.

Callow: Are you upset with the contractor or with the City?

Martin: The contractor that took the material out of there and sold it to the sand and gravel people.

Callow: I just didn't want you to be upset with City.

Patel: When does the habitat restoration go to design?

Rerick: It's presently being designed now. I understand that the Corps has changed consultants. The plan was that the habitat restoration improvements were to begin at the end of this Phase II construction, sometime in the 02/03 fiscal year. It was originally planned in phases, and I believe that is still the plan with everything wrapped up in 04/05.

ACTION: No action was required – for information and discussion only.

6) STATUS OF FY 02/03 PROPOSED BUDGET AND FY 01/02 BUDGET DISCUSSION ON DISTRICT EXPENDITURES

Michael Alexander, Management Analyst, presented the status of the FY 02/03 Proposed Budget and the FY 01/02 Expenditures.

Traditionally, the Flood Control District spends about 60% of its full year budgeted operating funds in the third and fourth quarter of the fiscal year. The analysis presented last month showed that the District would be spending about 70% in the third and fourth quarter this fiscal year, which was a break with tradition. Mr. Alexander stated that inadvertently the impression was given that when the budget is prepared it's flatlined from month to month equally and that that practice was responsible for part of the positive variance.

Both the actual and budget for Operating Expenditures-Supplies & Service are weighted to the third and fourth quarter. The distribution quarter to quarter 2001 Actual was followed when the FY 2002 budget was prepared. Generally speaking, the expense distribution is low in the first quarter, roughly equal in the second and third, and high in the fourth. Although the District is spending less, the pattern of distribution is roughly the same. For equipment purchases, the FY 2001 actual and FY 2002 budget are skewed to the third and fourth quarter and that is the way the District budgeted capital expenditures for this fiscal year.

There are a number of reasons that the expense distribution is the way it is.

1. Accounting Cycle: Fiscal year-end close is June 30, which means in the fourth quarter of the year, all invoices are paid including not only those received in June, but those received in

July that apply to June. In the fourth quarter, four months worth of invoices are being paid. However, in the first quarter of the next fiscal year, the District is only paying two months worth of invoices.

2. **Supplies Purchases:** The vast majority of the District's supplies are grounds keeping and landscaping supplies that go into the O&M operation. Most of those supplies are purchased in the third and fourth quarter.
3. **Staff Activity:** The first quarter is the traditional summer vacation season and the second quarter is the holiday season, so staff activity, although it's ongoing, is less in the first two quarters than the third and fourth.
4. **Vehicle Replacements:** The lead-time on vehicle replacements, which is the vast majority of capital equipment expenditures, is very long. Traditionally, vehicles are ordered in October and November and they are not received and put into service until late in the third quarter or early in the fourth quarter and that is when the expense is recognized.

Because of the slowdown in the economy, two very significant policy changes have occurred. One is the budget reduction guidelines passed by the Board of Directors in November. All capital and non-capital equipment expenditures have to be justified in terms of either emergency or public safety. The second policy change is that the Board of Directors asked all County departments and affiliated agencies to make voluntary budget reductions this year and next. The District made a voluntary budget reduction of \$506,800. About 32% of the positive variance are simply because of policy changes the Board asked the District to make due to the slowdown in the economy.

Subsequent to the time that the District presented their FY 2003 budget to the Advisory Board, some difficulties have arisen. Chief among them is that OMB gave the District an operating budget target of \$20,911,000, which is about \$1.2 million less than the District's operating budget this current fiscal year. One of the major items cut out was the funding for the Dam Safety Program. Mr. Ward responded that that is absolutely ludicrous! He recommended that the Advisory Board members talk to their representatives/supervisors about this issue. Mr. Alexander explained that the District came in initially at the budget target, but they also put together a number of Results Initiative Requests (RIR's) which are requests for funds above the target figure. The District is asking for:

- ?? Funding for the Dam Safety Program
- ?? Additional Regulatory personnel
- ?? Recovery of some of the voluntary budget reduction made this year (one-time deferrals)
- ?? Increase in the Engineering personnel
- ?? Funding for the NPDES Permit, which will be required of the County in FY 2003

Discussion:

Ward: If we get that favorable variance, which means we have cash, how do we invest that or how do you guys invest those dollars to yield a return?

Alexander: That money goes into our fund balance that is carried in the Treasurer's Department and we are paid interest on that money.

Ward: What kind of yield do you get?

Alexander: I believe at present it's about 4%.

Ward: That's not bad. And those are all liquid funds at all times?

Alexander: They are liquid from our perspective. Whether they put those into an investment instrument, I really can't say.

Ward: Does OMB come to you and ask where you can afford these cuts, or do they just unilaterally say that they don't think it's prudent for you to have a Dam Safety Program.

Alexander: OMB sent us a target figure for our operating budget. The way they did it this year was to take our operating budget for this year. They subtracted out voluntary reductions, even though we told them that only a portion could apply to next year. They took out our Dam Safety Initiative from this year of \$920,000, and that's where they came in with the \$20,911,000 Operating Budget. No, they do not suggest . . .

Ward: They unilaterally come in and look at your budget and say this is where we're going to cut funds?

Johnson: The e-mail that we received from OMB clearly indicated and they specified the Dam Safety Program as taking the hit. So, yes they did unilaterally specify, which is obviously of consternation to us because we believe we should be the ones deciding, if we need to meet a target, where we should cut to meet that target. We are in disagreement and have vocally explained that to them.

Callow: Didn't we reach an agreement a number of years ago that our tax collection rate was going to be \$45 million a year?

Johnson: Yes we did, \$45 million a year for five years and we would revisit that subject.

Callow: Why would we need to cut then if we are still going to collect \$45 million a year.

Johnson: The Office of Management and Budget is taxed with looking for every opportunity to cut back to ensure that the County remains fiscally sound. Right now they are looking at all departments and are dictating to them, whether they are districts or not, what they believe their budgets should be.

Patel: And they're reducing us from that \$45 million, right? Are we dropping below \$45 million now?

Alexander: No, we are receiving the \$45 million dollars in secondary tax revenue . . .

Callow: But we can't spend it?

Alexander: That is exactly right.

ACTION: No action was required – for information and discussion only.

7) COMMENTS FROM THE DEPUTY CHIEF ENGINEER

Tom Johnson mentioned that the District is taking the Results Initiatives Requests very seriously. The District made a presentation to OMB, but it's difficult to tell how that was received. OMB's position is that after the presentations to the Board of Directors, they will give their input to the Board. Mr. Ward asked that the Board be informed of these budget issues earlier so that they can become involved in the budget meetings with the Board of Directors. Mr. Johnson responded that he'd be happy to give more advanced warning and soliciting whatever help the Advisory Board could give. Mr. Ward indicated that he has talked with Supervisor Brock about this and he doesn't think these people are really cognizant of a Dam Safety Program and questions how they can come in and unilaterally cut that budget.

Mr. Patel mentioned that Mr. Ellegood won a lifetime achievement award from the Society of Professional Engineers. He encouraged the Advisory Board members to give him an "atta boy" next time they see him. This is quite an honor from the Professional Engineering Community.

8) SUMMARY OF RECENT ACTIONS

Actions of the Board of Supervisors were included in the FCAB packet.

9) OTHER BUSINESS AND COMMENTS FROM THE PUBLIC

There was no other business or comments from the public.

The meeting was adjourned at 4:20 p.m. by general consent.

Shirley Long
Secretary of the Board

Kathy Smith
Clerk of the Board